MOTION FILED
NOV 16 1999

No. 99-0138

IN THE

SUPREME COURT OF THE UNITED STATES

TROXEL, JENNIFER, et al.
Petitioner,
v.
GRANVILLE, TOMMIE
Respondent.

ON WRIT OF CERTIORARI TO UNITED STATES SUPREME COURT

MOTION FOR AND AFFIDAVIT OF JASON R. SMITH IN SUPPORT OF LEAVE TO FILE AMICUS CURIAE BRIEF OF GRANDPARENTS' UNITED FOR CHILDREN'S RIGHTS, INC.

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App

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MOTION

Pursuant to Sup. Ct. R. 37.3, Grandparents' United for Children's Rights, Inc. moves this Honorable Court for leave to file its *amicus curiae* brief in the above-captioned matter. The grounds for this motion are that movant was not provided with notice of the Order requiring briefs to be filed no later than 3:00 p.m. on November 12, 1999, and that the parties have provided written consent for the filing

of Grandparents' United for Children's Rights, Inc.'s *amicus curiae* brief. This motion is based on the accompanying Affidavit of Jason R. Smith and all matters of record.

Respectfully Submitted,

Carol M. Gapen

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AFFIDAVIT OF JASON R. SMITH

STATE OF WISCONSIN

COUNTY OF DANE

Jason R. Smith states as follows:

1. I am one of the attorneys for Grandparents' United for Children's Rights, Inc.

2. I received written consent of the parties to file an *amicus curiae* brief on behalf of Grandparents' United for Children's Rights, Inc.

3. Attorneys Mark D. Olson and Catherine Wright Smith did not inform me of the existence of the Order requiring briefs to be submitted on November 12, 1999. The original written consent of Attorneys Olson and Wright Smith were filed with the Court on November 15, 1999.

4. At no time prior to November 15, 1999 did I receive a copy of or notice of the Court's Order requiring the parties to submit briefs no later than 3:00 p.m. on November 12, 1999. I was first informed of this Order as a result of a telephone call from the Clerk of the Supreme Court to my colleague, Carol Gapen. Subsequently, Ms. Gapen informed me of this telephone call.

5. Proceeding without knowledge of the Court's Order, I calculated the time for filing of the *amicus curiae* brief pursuant to Sup. Ct. R. 25.1 and 37.3(a). I calculated the 45th day from the date of Court's Writ of Certiorari to be November 13, 1999. Because November 13, 1999 was a Saturday, I calculated the deadline for filing of the *amicus curiae* brief to be Monday, November 15, 1999, pursuant to Sup. Ct. R. 30.1.

6. I am informed and believe that the *amicus curiae* brief of Grandparents' United for Children's Rights, Inc. complies with the applicable Supreme Court Rules.

7. I make this affidavit on personal knowledge.

Jason R. Smith

Subscribed and sworn to before me
this 16th day of November, 1999.

Vicki L. Eggers
Notary Public, State of Wisconsin
My commission expires: 3/25/01.